

"(ii) describes how the school will use resources under this part and from other sources to implement those components;

"(iii) includes a list of State and local educational agency programs and other Federal programs under subsection (a)(4) that will be included in the schoolwide program;

"(iv) describes how the school will provide individual student assessment results, including an interpretation of those results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

"(v) provides for the collection of data on the achievement and assessment results of students disaggregated by gender, major ethnic or racial groups, limited English proficiency status, migrant students, and by children with disabilities as compared to other students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

"(vi) seeks to produce statistically sound results for each category for which assessment results are disaggregated through the use of oversampling or other means; and

"(vii) provides for the public reporting of disaggregated data only when such reporting is statistically sound.

"(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria in paragraphs (1) and (3) of section 1111(b) shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

"(C) The comprehensive plan shall be—

"(i) developed during a one-year period, unless—

"(I) the local educational agency, after considering the recommendation of the technical assistance providers under subsections (c) and (e) of section 1117, determines that less time is needed to develop and implement the schoolwide program; or

"(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994, in which case such school may continue to operate such program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

"(ii) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, other staff, and, where appropriate, pupil services personnel, and parents, and, if the plan relates to a secondary school, students from such school;

"(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

"(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of

participating children in the school speak as their primary language; and

"(v) where appropriate, developed in coordination with programs under the School-to-Work Opportunities Act of 1994, the Carl D. Perkins Vocational and Applied Technology Education Act, and the National and Community Service Act of 1990.

"(c) ACCOUNTABILITY.—A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

"SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

20 USC 6315.

"(a) IN GENERAL.—In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

"(b) ELIGIBLE CHILDREN.—

"(1) ELIGIBLE POPULATION.—(A) The eligible population for services under this part is—

"(i) children not older than age 21 who are entitled to a free public education through grade 12; and

"(ii) children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which such children can benefit from an organized instructional program provided in a school or other educational setting.

"(B) From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade two shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

"(2) CHILDREN INCLUDED.—(A)(i) Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

"(ii) Funds received under this part may not be used to provide services that are otherwise required by law to be made available to such children but may be used to coordinate or supplement such services.

"(B) A child who, at any time in the two years preceding the year for which the determination is made, participated in a Head Start or Even Start program, is eligible for services under this part.

"(C)(i) A child who, at any time in the two years preceding the year for which the determination is made, received services under the program for youth who are neglected, delinquent, or at risk of dropping out under part D (or its predecessor authority) may be eligible for services under this part.

"(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children may be eligible for services under this part.

"(D) A child who is homeless and attending any school in the local educational agency may be eligible for services under this part.

"(c) COMPONENTS OF A TARGETED ASSISTANCE SCHOOL PROGRAM.—

"(1) IN GENERAL.—To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's student performance standards in subjects as determined by the State, each targeted assistance program under this section shall—

"(A) use such program's resources under this part to help participating children meet such State student performance standards expected for all children;

"(B) be based on effective means for improving achievement of children;

"(C) ensure that planning for students served under this part is incorporated into existing school planning;

"(D) use effective instructional strategies that—

"(i) give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer, programs and opportunities;

"(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

"(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

"(E) coordinate with and support the regular education program, which may include—

"(i) counseling, mentoring, and other pupil services;

"(ii) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

"(iii) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

"(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

"(F) provide instruction by highly qualified staff;

"(G) in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and from other sources to the extent feasible, for administrators and for teachers and other school staff who work with participating

children in programs under this section or in the regular education program; and

"(H) provide strategies to increase parental involvement, such as family literary services.

"(2) REQUIREMENTS.—Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) to meet the State's proficient and advanced levels of performance by—

"(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; and

"(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student performance standards, such as an extended school year, before- and after-school, and summer, programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student performance standards in the classroom.

"(d) ASSIGNMENT OF PERSONNEL.—To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

"(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

"(2) participate in general professional development and school planning activities; and

"(3) collaboratively teach with regular classroom teachers, if such collaborative teaching directly benefits participating children.

"(e) SPECIAL RULES.—

"(1) SIMULTANEOUS SERVICE.—Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(2) COMPREHENSIVE SERVICES.—If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide services under this part, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

"(A) the provision of basic medical equipment, such as eyeglasses and hearing aids;

"(B) compensation of a coordinator; and

“(C) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

“(3) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subparagraph (G) of subsection (c)(1) in accordance with section 1119, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

USC 6316.

“SEC. 1115A. SCHOOL CHOICE.

“(a) CHOICE PROGRAMS.—A local educational agency may use funds under this part, in combination with State, local, and private funds, to develop and implement choice programs, for children eligible for assistance under this part, which permit parents to select the public school that their children will attend.

“(b) CHOICE PLAN.—A local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that—

“(1) all eligible students across grade levels will have equal access to the program;

“(2) the program does not include schools which follow a racially discriminatory policy;

“(3) describe how the school will use resources under this part and from other sources to implement the plan;

“(4) describe how the school will provide individual student assessment results, including an interpretation of such results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

“(5) the plan will be developed with the involvement of the community to be served and individuals who will carry out the plan, including teachers, principals, and other staff, parents, and, if the plan relates to a secondary school, students from the school;

“(6) the plan will be made available to parents and the public;

“(7) the program will not include schools that do not receive funds under this part;

“(8) the program will not use funds under this part to pay for transportation costs;

“(9) both the sending and receiving schools agree to the student transfer; and

“(10) such local educational agency will comply with the other requirements of this part.

“SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

“(a) LOCAL REVIEW.—Each local educational agency receiving funds under this part shall—

“(1) use the State assessments described in the State plan;

“(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(A)(i) toward enabling its stu-

dents to meet the State's student performance standards described in the State plan;

“(3) publicize and disseminate to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (2) of all schools served under this part in individual school performance profiles that include statistically sound disaggregated results as required by section 1111(b)(3)(I); and

“(4) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

“(b) DESIGNATION OF DISTINGUISHED SCHOOLS.—Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 1117.

“(c) SCHOOL IMPROVEMENT.—

“(1) IN GENERAL.—A local educational agency shall identify for school improvement any school served under this part that—

“(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), for at least two consecutive school years prior to such day;

“(B) has not made adequate progress as defined in the State's plan under section 1111(b)(2)(A)(i) for two consecutive school years, except that—

“(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

“(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

“(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

“(2) REQUIREMENT.—(A) Each school identified under paragraph (1) shall—

“(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards, which may include reviewing the schools' plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act; and

“(ii) submit the plan or revised plan to the local educational agency for approval.

“(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error for statistical or other substantive

reasons, such school may provide evidence to the local educational agency to support such belief.

"(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

"(3) PROFESSIONAL DEVELOPMENT.—(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this paragraph by—

"(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

"(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

"(B) A school may use funds from any source to meet the requirements of this subsection.

"(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

"(4) TECHNICAL ASSISTANCE.—(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

"(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

"(5) CORRECTIVE ACTION.—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

"(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

"(I) withholding funds;

"(II) interagency collaborative agreements between the school and other public agencies to provide health, counseling, and other social services needed to remove barriers to learning;

"(III) revoking authority for a school to operate a schoolwide program;

"(IV) decreasing decisionmaking authority at the school level;

"(V) making alternative governance arrangements such as the creation of a public charter school;

"(VI) reconstituting the school staff;

"(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency; and

"(VIII) implementing opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclause (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 1111(b)(3).

"(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

"(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

"(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

"(A) make technical assistance under section 1117 available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

"(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (4) and (5), take such corrective actions as the State educational agency deems appropriate and which are in compliance with State law.

"(7) SPECIAL RULE.—Schools that, for at least two of the three years following identification under paragraph (1), make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall—

"(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in section 1111(b)(2)(A)(ii) toward meeting the State's student performance standards; and

"(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including

statistically sound disaggregated results, as required by section 1111(b)(3)(I).

"(2) **REWARDS.**—In the case of a local educational agency that for three consecutive years has met or exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(ii), the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 1117(c).

"(3) **IDENTIFICATION.**—(A) A State educational agency shall identify for improvement any local educational agency that—

"(i) for two consecutive years, is not making adequate progress as defined in section 1111(b)(2)(A)(ii) in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress of only those students served under this part; or

"(ii) has failed to meet the criteria established by the State through such State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

"(B) Before identifying a local educational agency for improvement under paragraph (1), the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

"(4) **LOCAL EDUCATIONAL AGENCY REVISIONS.**—(A) Each local educational agency identified under paragraph (3) shall, in consultation with schools, parents, and educational experts, revise its local educational agency plan under section 1112 in ways that have the greatest likelihood of improving the performance of schools served by the local educational agency under this part in meeting the State's student performance standards.

"(B) Such revision shall include determining why the local educational agency's plan failed to bring about increased achievement, and may include reviewing the local educational agency's plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(5) **STATE EDUCATIONAL AGENCY RESPONSIBILITY.**—(A) For each local educational agency identified under paragraph (3), the State educational agency shall—

"(i) provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency to—

"(I) develop and implement the local educational agency's revised plan; and

"(II) work with schools needing improvement; and

"(ii) make available to the local educational agencies farthest from meeting the State's standards, if requested, assistance under section 1117.

"(B) Technical or other assistance may be provided by the State educational agency directly, or by an institution of

higher education, a private nonprofit organization, an educational service agency or other local consortium, a technical assistance center, or other entities with experience in assisting local educational agencies improve achievement, and may include—

"(i) interagency collaborative agreements between the local educational agency and other public agencies to provide health, pupil services, and other social services needed to remove barriers to learning; and

"(ii) waivers or modification of requirements of State law or regulation (in States in which such waivers are permitted) that impede the ability of a local educational agency to educate students.

"(6) **CORRECTIVE ACTION.**—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time against a local educational agency that has been identified under paragraph (3), but, during the fourth year following identification under paragraph (3), shall take such action against any local educational agency that still fails to make adequate progress.

"(B)(i) Corrective actions are those actions, consistent with State law, determined and made public and disseminated by the State educational agency, which may include—

"(I) the withholding of funds;

"(II) reconstitution of school district personnel;

"(III) removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools;

"(IV) implementation of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act;

"(V) appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board;

"(VI) the abolition or restructuring of the local educational agency;

"(VII) the authorizing of students to transfer from a school operated by one local educational agency to a school operated by another local educational agency; and

"(VIII) a joint plan between the State and the local educational agency that addresses specific elements of student performance problems and that specifies State and local responsibilities under the plan.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (II), and (III) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(C) of section 1111(b).

"(C) Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing (if State law provides for such due process and a hearing) to any local educational agency identified under paragraph (3) and may refrain from such corrective action for one year

after the four-year period described in subparagraph (A) to the extent that the failure to make progress can be attributed to such extenuating circumstances as determined by the State educational agency.

"(7) SPECIAL RULE.—Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

10 USC 6318.

"SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

"(a) SYSTEM FOR SUPPORT.—

"(1) STATE SUPPORT.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this part, including schoolwide programs and schools in need of program improvement, in order to increase the opportunity for all students in such schools to meet the State's content standards and student performance standards.

"(2) MEETING REQUIREMENTS.—Funds reserved under section 1003(a) or appropriated under section 1002(f) shall be used to meet the requirements of this section. In addition to such funds a State educational agency may use State administrative funds reserved under section 1603(c) to meet such requirements.

"(b) REGIONAL CENTERS.—Such a statewide system shall work with and receive support and assistance from the comprehensive regional technical assistance centers under part A of title XIII and the educational regional laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(c) PROVISIONS.—The system shall include at a minimum, the following:

"(1) SCHOOL SUPPORT TEAMS.—

"(A) Each State educational agency, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs and to assist such programs in providing an opportunity to all students to meet the State's student performance standards.

"(B) If funds are sufficient, school support teams shall provide information and assistance to—

"(i) schools—

"(I) in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school; and

"(II) identified as in need of improvement under section 1116(c)(1); and

"(ii) other schools in need of improvement.

"(C) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform (especially distinguished educators described in paragraph (3)), and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for low-achieving students (including alternative and applied learning), such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

"(D) A school support team shall work cooperatively with each school and make recommendations as the school develops the school's schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

"(E) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

"(i) periodically review the progress of the school in enabling children in the school to meet the State's student performance standards under this part;

"(ii) identify problems in the design and operation of the instructional program; and

"(iii) make recommendations for improvement to the school and the local educational agency.

"(2) DISTINGUISHED SCHOOLS.—

"(A) Each State shall designate as a distinguished school any school served under this part which, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(i), and, any school in which—

"(i) virtually all students have met the State's advanced level of student performance; and

"(ii) equity in participation and achievement of students by sex has been achieved or significantly improved.

"(B) Schools designated under this paragraph may serve as models and provide support to other schools, especially schoolwide programs and schools in school improvement, to assist such schools in meeting the State's student performance standards.

"(C) States shall use funds reserved under section 1003(a) and funds made available under section 1002(f) to allow schools identified under this paragraph to carry out the activities described in subparagraph (B) and may use such funds to provide awards to such schools to further such school's education programs under this part, provide additional incentives for continued success, and reward individuals or groups in the school for exemplary performance.

"(D) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level,

increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

"(3) DISTINGUISHED EDUCATORS.—

"(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds reserved under section 1003(a) and made available under section 1002(f), shall establish a corps of distinguished educators.

"(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

"(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies farthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

"(d) IMPLEMENTATION.—In order to implement this section funds reserved under section 1003(a) and funds made available under section 1002(f) may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

"(e) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and the State may seek approval from the Secretary to use funds reserved under section 1003 and funds made available under section 1002(f) for such approaches as part of the State plan.

20 USC 6319

"SEC. 1118. PARENTAL INVOLVEMENT.

"(a) LOCAL EDUCATIONAL AGENCY POLICY.—

"(1) IN GENERAL.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

"(2) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

"(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

"(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

"(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e);

"(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Even Start, the Parents as Teachers Program, the Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

"(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy developed under this section—

"(i) to determine the effectiveness of the policy in increasing the participation of parents; and

"(ii) to identify barriers to greater participation by parents in activities authorized by this section, giving particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background; and

"(F) use the findings of the evaluations described in subparagraph (E) in designing strategies for school improvement and revising, if necessary, the parental involvement policies described in this subsection and subsection (b)(1).

"(3) RESERVATION.—(A) Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 1002(e)) for the fiscal year for which the determination is made is \$5,000 or less.

"(B) Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

"(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

"(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Such policy shall be updated periodically to meet the changing needs of parents and the school.

"(2) SPECIAL RULE.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

"(3) AMENDMENT.—If the local educational agency has a school district-level parental involvement policy that applies

to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

"(4) PARENTAL COMMENTS.—If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

"(c) POLICY INVOLVEMENT.—Each school served under this part shall—

"(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

"(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

"(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b), except that if a school has in place a process for involving parents in the joint planning and design of its programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

"(4) provide parents of participating children—

"(A) timely information about programs under this part;

"(B) school performance profiles required under section 1116(a)(3) and their child's individual student assessment results, including an interpretation of such results, as required under section 1111(b)(3)(H);

"(C) a description and explanation of the curriculum in use at the school, the forms of assessment used to measure student progress, and the proficiency levels students are expected to meet;

"(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

"(E) timely responses to parents' suggestions under subparagraph (D); and

"(5) if the schoolwide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

"(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT PERFORMANCE.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

"(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

"(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

"(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

"(B) frequent reports to parents on their children's progress; and

"(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

"(e) BUILDING CAPACITY FOR INVOLVEMENT.—To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency—

"(1) shall provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content standards and State student performance standards, the provisions of section 1111(b)(8), State and local assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children as well as information on how parents can participate in decisions relating to the education of their children;

"(2) shall provide materials and training, such as—

"(A) coordinating necessary literacy training from other sources to help parents work with their children to improve their children's achievement; and

"(B) training to help parents to work with their children to improve their children's achievement;

"(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between home and school;

"(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

"(5) shall develop appropriate roles for community-based organizations and businesses in parent involvement activities, including providing information about opportunities for organizations and businesses to work with parents and schools, and encouraging the formation of partnerships between

elementary, middle, and secondary schools and local businesses that include a role for parents;

"(6) shall conduct other activities, as appropriate and feasible, such as parent resource centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child, that are designed to help parents become full partners in the education of their children;

"(7) shall ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is sent to the homes of participating children in the language used in such homes;

"(8) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents;

"(9) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

"(10) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

"(11) may train and support parents to enhance the involvement of other parents;

"(12) may arrange meetings at a variety of times, such as in the mornings and evenings, in order to maximize the opportunities for parents to participate in school related activities;

"(13) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school;

"(14) may adopt and implement model approaches to improving parental involvement, such as Even Start; and

"(15) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

"(f) ACCESSIBILITY.—In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand.

"(g) PARENTAL INFORMATION AND RESOURCE CENTERS.—In States where parental information and resource centers have been established pursuant to section 401 of the Goals 2000: Educate America Act of 1994 (to provide training, information, and support to parents and individuals who work with parents), local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

"SEC. 1119. PROFESSIONAL DEVELOPMENT.

"(a) PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the State content standards, in order to enable all children to meet the State's student performance standards.

"(2) PROGRAM DESIGN.—Such professional development activities shall be designed by principals, teachers, and other school staff in schools receiving assistance under this part.

"(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—

"(1) REQUIRED ACTIVITIES.—Such professional development activities shall—

"(A) support instructional practices that are geared to challenging State content standards and create a school environment conducive to high achievement in the academic subjects;

"(B) support local educational agency plans under section 1112 and school plans under section 1114;

"(C) draw on resources available under this part, title III of the Goals 2000: Educate America Act, title II of this Act, and from other sources;

"(D) where appropriate, as determined by the local educational agency, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction (including applied learning and team teaching strategies); and

"(E) include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

"(2) OPTIONAL ACTIVITIES.—Such professional development activities may include—

"(A) instruction in the use of assessments;

"(B) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

"(C) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

"(D) instruction in the use of technology;

"(E) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers;

"(F) instruction in ways to teach special needs children;

"(G) instruction in gender-equitable education methods, techniques, and practices;

"(H) joint professional development activities involving programs under this part, Head Start, Even Start, or State-run preschool program personnel; and

"(I) instruction in experiential-based teaching methods such as service learning.

“(c) PROGRAM PARTICIPATION.—Each local educational agency receiving assistance under this part is encouraged to design professional development programs so that—

“(1) all school staff in schools participating in a schoolwide program under section 1114 can participate in professional development activities; and

“(2) all school staff in targeted assistance schools may participate in professional development activities if such participation will result in better addressing the needs of students served under this part.

“(d) PARENTAL PARTICIPATION.—Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

“(e) CONSORTIA.—In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher education, or other public or private institutions or organizations.

“(f) EFFECTIVE TEACHING STRATEGIES.—Knowledge of effective teaching strategies that is gained through professional development activities under this section may be shared with teachers who are not participating in targeted assistance programs under this part.

“(g) COMBINATIONS OF FUNDS.—Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, title III of the Goals 2000: Educate America Act, and other sources.

“(h) STATE REVIEW.—

“(1) IN GENERAL.—The State educational agency shall review the local educational agency's plan under section 1112(b) to determine if such agency's professional development activities—

“(A) are tied to challenging State student content and student performance standards;

“(B) reflect research on teaching and learning where possible;

“(C) are designed to have a positive impact on the teacher's performance in the classroom;

“(D) contribute to continuous improvement in the classroom or throughout the school;

“(E) include methods to teach children with special needs;

“(F) are developed with the extensive participation of teachers; and

“(G) include gender-equitable education methods, techniques, and practices.

“(2) TECHNICAL ASSISTANCE.—If a local educational agency's plan for professional development does not include the activities described in paragraph (1), the State educational agency shall provide technical assistance to such local educational agencies to enable such agencies to make progress toward inclusion of such activities in the local educational agency's professional development activities.

“(3) SPECIAL RULE.—No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities

under this part, except that this paragraph shall not apply with respect to requirements under section 1116(d)(6).

“(i) INSTRUCTIONAL AIDES.—

“(1) IN GENERAL.—If a local educational agency uses funds received under this part to employ instructional aides, the local educational agency shall ensure that such aides—

“(A) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

“(B) have a secondary school diploma, or its recognized equivalent, or earn either within two years of employment, except that a local educational agency may employ an instructional aide that does not meet the requirement of this subparagraph if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

“(C) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

“(2) INCLUSION IN ACTIVITIES.—Each local educational agency receiving funds under this part, when feasible, shall include instructional aides in professional development activities.

“SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS. 20 USC 6321.

“(a) GENERAL REQUIREMENT.—

“(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment).

“(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

“(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part.

“(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

“(5) PROVISION OF SERVICES.—The local educational agency may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

“(b) CONSULTATION.—

“(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and devel-

opment of such agency's programs under this part, on issues such as—

- “(A) how the children's needs will be identified;
- “(B) what services will be offered;
- “(C) how and where the services will be provided;
- “(D) how the services will be assessed; and
- “(E) the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportion of funds allocated under subsection (a)(4) for such services.

“(2) **TIMING.**—Such consultation shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.

“(3) **DISCUSSION.**—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

“(c) **PUBLIC CONTROL OF FUNDS.**—

“(1) **IN GENERAL.**—The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds and property.

“(2) **PROVISION OF SERVICES.**—(A) The provision of services under this section shall be provided—

- “(i) by employees of a public agency; or
- “(ii) through contract by such public agency with an individual, association, agency, or organization.

“(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

“(d) **STANDARDS FOR A BYPASS.**—If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

“(1) waive the requirements of this section for such local educational agency; and

“(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 14505 and 14506.

“(e) **CAPITAL EXPENSES.**—

“(1) **IN GENERAL.**—(A) From the amount appropriated for this subsection under section 1002(e) for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

“(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the

purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

“(2) **CAPITAL EXPENSES.**—(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

“(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

“(3) **USES OF FUNDS.**—Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

“(4) **DEFINITION.**—For the purpose of this subsection, the term ‘capital expenses’ means—

- “(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;
- “(B) insurance and maintenance costs;
- “(C) transportation; and
- “(D) other comparable goods and services.

“SEC. 1120A. FISCAL REQUIREMENTS.

20 USC 6322.

“(a) **MAINTENANCE OF EFFORT.**—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational agency has maintained its fiscal effort in accordance with section 14501 of this Act.

“(b) **FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.**—

“(1) **IN GENERAL.**—(A) Except as provided in subparagraph (B), a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

“(B) For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or 1115.

“(2) **SPECIAL RULE.**—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

“(c) **COMPARABILITY OF SERVICES.**—

“(1) **IN GENERAL.**—(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

“(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds

under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

"(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

"(2) WRITTEN ASSURANCE.—(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

"(i) a local educational agency-wide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

"(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

"(3) PROCEDURES AND RECORDS.—Each local educational agency assisted under this part shall—

"(A) develop procedures for compliance with this subsection; and

"(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

"(4) INAPPLICABILITY.—This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

"(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

"(A) bilingual education for children of limited English proficiency; and

"(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

20 USC 6323.

"SEC. 1120B. COORDINATION REQUIREMENTS.

"(a) IN GENERAL.—Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation of parents and local Head Start agencies and, if feasible, other early childhood development programs.

"(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, serving children who will attend the schools of such agency, including—

"(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs;

"(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs, as appropriate, to facilitate coordination of programs;

"(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs, to discuss the developmental and other needs of individual children; and

"(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

"(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act Amendments of 1994.

"Subpart 2—Allocations

"SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR. 20 USC 6331.

"(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

"(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

"(2) the Secretary of the Interior in the amount necessary Territories. to make payments pursuant to subsection (c).

"(b) ASSISTANCE TO THE OUTLYING AREAS.—

"(1) IN GENERAL.—From amounts made available under subsection (a) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas (other than the outlying areas assisted under paragraph (3)).

"(2) COMPETITIVE GRANTS.—(A) The Secretary shall reserve \$5,000,000 from the amounts made available under subsection (a) in each fiscal year to award grants on a competitive basis, to local educational agencies in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

"(B) Except as provided in subparagraph (D), grant funds awarded under this part only may be used for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform.

"(C) Grant funds awarded under this paragraph only may be used to provide direct educational services.

PROFESSIONAL DEVELOPMENT

Professional development is another major emphasis in Title I. Section 1119 contains provisions for required professional development activities. Many other sections of Title I also include references to professional development.

Private school officials and staff who work directly with private school children who participate in Title I may be included in professional development activities. In addition, parents of private school participants may participate in professional development activities if appropriate. Public school teachers who provide Title I services to private school children must be provided professional development, if needed. (See "Professional Development" guidance.)

STANDARDS, ASSESSMENT, AND PROGRAM IMPROVEMENT

In consultation with private school officials, an LEA must provide participating private school children an equitable opportunity to meet the State's content and student performance standards. In some instances, however, it may not be appropriate to expect private school children to meet the State's standards--for example, if those standards are not aligned with the curriculum of the private school. If the LEA, in consultation with private school officials, determines that it would be inappropriate to measure the achievement of participating private school children in relation to the State's content and performance standards, the LEA must develop alternative standards that provide reasonable promise of those children achieving the high levels called for by the State's student performance standards.

An LEA must assess annually the progress of the Title I program toward enabling private school Title I participants to meet the State's challenging student performance standards (or the LEA's alternative standards). Generally, an LEA must assess the progress of the Title I program using the State's definition of adequate yearly progress. However, the LEA may need to modify that definition, in consultation with private school officials, to better measure the progress for participating private school children. In measuring adequate yearly progress, the LEA has the flexibility to group children in a manner that will provide the most accurate information of this progress. For example, the LEA may decide to group children by the type of instructional method, grade level, school, or other appropriate basis.

In general, an LEA must use the State assessment system (i.e., the final assessment required under section 1111(b)(3) of Title I or the transitional assessment under section 1111(b)(7)) as well as any additional measures or indicators the LEA deems necessary to measure how well the Title I program is enabling the private school students to meet the State's challenging student performance standards. In some instances, however, it may not be appropriate for the LEA to use the State assessment system. If the LEA, in consultation with private school officials, determines that the State assessment would not provide accurate information about

the progress of participating private school children, the LEA may use other assessment measures that more accurately reflect the progress of those children toward meeting the State's standards.

If an LEA determines that the Title I program serving private school children has not made adequate progress (or met the criteria established by the State for transitional assessments) for two consecutive school years, the LEA must develop a program improvement plan that has the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards.

Q39. In what subjects does an LEA assess private school children?

- A. An LEA normally would assess private school children in the subjects in which the LEA provides Title I services to those children.

Q40. May Title I funds be used to assess private school children?

- A. Title I funds may be used to assess private school children if the assessment is being used only for Title I purposes. To the extent, however, that an assessment is conducted for other purposes, it may not be paid for from Title I funds. For example, if private school children, in general, are included in the State assessment, Title I funds may not be used to pay for the assessment of those private school children participating in Title I.

BYPASS

If an LEA is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that an LEA has substantially failed or is unwilling to provide for such participation, the Secretary waives the requirements for the LEA to serve private school children and arranges for the provision of such services. The Secretary informs the LEA and SEA that a bypass will be invoked. [The specific steps are found in section 14506 of the ESEA]

To implement a bypass, funds are deducted from the LEA's Title I allocation. In computing the amount to be deducted, administrative costs for serving private school children and capital expenses are included in the amount deducted from the allocation. Funds for educational services are generated on the basis of the number of low-income private school children residing in participating public school attendance areas. The Department ensures that services are provided in a cost-effective manner.

In Wolman v. Walter, the Supreme Court upheld the provision of technical services, such as those of a diagnostician, on the premises of a religiously affiliated private school. The Court found that the nature of that relationship "does not provide the same opportunity for the transmission of sectarian views as attends the relationship between teacher and student or that between counselor and student." 433 U.S. 229, 244 (1977). Thus, the placement of a technician in a CAI Title I classroom does not raise the entanglement problems at issue in the Felton case.

Q36. May equipment be placed on the premises of a religiously affiliated private school to provide CAI under Title I to eligible children enrolled in the school?

A. Yes. CAI equipment may be placed on the premises of a religiously affiliated private school under certain circumstances. We believe that such a placement will withstand judicial scrutiny if the following criteria are met:

1. As with all Title I programs serving private school children, the CAI program must be under the LEA's direction and control. On-site review by public school officials must be limited, however, to such things as the installation, repair, inventory, and maintenance of the equipment.
2. Private school personnel may be present in CAI rooms to perform limited noninstructional functions such as maintaining order, assisting children with equipment operations (such as turning the equipment on and off, demonstrating the use of the computers, and accessing Title I programs), and assisting with the installation, repair, inventory, and maintenance of the equipment.
3. Neither public nor private school personnel may assist the students with instruction in the CAI room. Public school personnel may, however, assist by providing instruction through computer messages, by telephone, or by television.
4. Access to the computer equipment and the rest of the program must be limited to participating Title I children.
5. Equipment purchased with Title I funds may not be used for other than Title I purposes. Only software directly related to the Title I program may be used with CAI.

Q37. Does CAI by itself meet the equitability requirements of Title I?

A. Eligible private school children must receive services that are equitable in comparison to the Title I services provided to public school children in terms of both the quality and the costs of the services. When both public and private school children are receiving the same CAI service, the equitable services requirement of Title I is met.

When CAI is being provided to private school children while public school children are receiving direct instruction from a teacher, the question of equitability is more difficult. This may be especially true in years after the computers were purchased since, after the initial purchase of equipment, CAI normally provides services at a cost less than the typical Title I program. (This problem may not exist, however, if the cost of the equipment is spread out over a number of years. (See the next question.) If CAI alone does not provide services equitable to those being provided public school children, the LEA should offer additional services, such as after-school tutorial sessions or appropriate summer school programs, to make the offer equitable.

Whether the services provided by an LEA to private school students are equitable to those provided to children in public school is measured by factors discussed in §200.11 of the Title I regulations.

- Q38. May the cost of purchasing a computer be spread out over a period of years for the purpose of meeting the equitable costs requirement?**
- A.** The cost of a computer may be spread over a period of years by such means as leasing the equipment, arranging for a lease-purchase agreement, or by paying for the equipment in installments. The LEA may also buy the equipment with local funds, and at the time of purchase agree to have the Title I program proportionately reimburse the local funds each year.

PARENTAL INVOLVEMENT

The statute places considerable emphasis on parental involvement. Section 1118 contains many provisions pertaining to an LEA's responsibilities for carrying out parental involvement activities. If an LEA reserves funds "off the top" of its Title I allocation for carrying out Title I parental involvement activities, the LEA must involve parents of private school participants in those activities. If, instead, the LEA requires its Title I schools to provide parental involvement activities for public school parents from the Title I funds the schools receive, the LEA must provide activities for private school parents from the funds generated for providing services to private school children. Activities for the parents of private school participants must be designed in consultation with private school officials and parents. Furthermore, an LEA has the responsibility for consulting with private school officials and parents of participating private school children to jointly develop a compact between the LEA and parents of private school participants that outlines their shared responsibility for improved student achievement under Title I. A compact between the private school and participating private school children is not required, however. (See "Parental Involvement" guidance.)

EXAMPLE

LEA Part A Allocation \$1,000,000

(Subtract "Off-the-Top" Costs)

Capital Expense (CE) Costs (not covered by CE grant)	-\$ 25,000*
Administrative Costs (Private/Public)	-\$ 125,000
Reserves/Set-Asides	<u>-\$ 50,000</u>

Total for educational services \$ 800,000
(for public and private school children)

In addition to capital expenses not covered by a CE grant (\$25,000), the LEA is receiving a CE grant of \$50,000 for current capital expenses. Therefore, the total capital expenses for implementing the requirements of Felton are \$75,000. The \$25,000 over and above the CE grant must be taken off the top of the allocation.

*CE calculations

Total CE	\$75,000
Less CE Grant	<u>-50,000</u>
CE Costs taken "off the top"	\$25,000

Q30. How does an LEA apply for capital expense funds?

- A. Using an application designed by the SEA, LEAs request funds based on the criteria established by the SEA.

Q31. May capital expense funds be used to reimburse an LEA for local or State-funded capital expenses?

- A. Capital expense funds may not be used to reimburse expenditures made from State and local funds.

Q32. If an LEA does not receive a capital expense grant or if a third-party contractor is used, must an LEA still take capital expenses off the LEA's whole Title I allocation?

A. Yes.

Q33. When property that was purchased or reimbursed with capital expense funds is sold at market value, must the payment for the property be deposited in the capital expense fund?

A. Yes.

Computer-Assisted Instruction (CAI)

Q34. May Title I funds be used to install necessary electrical wiring in order to operate Title I CAI programs at a private school?

A. Yes. Reasonable installation costs are allowable under certain circumstances. In approving such costs, SEAs must be aware that no Part A funds may be used for repairs, minor remodeling, or construction of private school facilities. Nevertheless, one way in which the installation would be permissible is if:

- The installation is necessary in order for the Title I program to operate;
- The cost is related solely to the CAI program and does not otherwise correct a deficiency in the facility;
- The installation does not result in any improvement to the private school facilities other than the electrical wiring related to the Title I computer(s); and
- The representatives of the private school agree either to reimburse the Title I program for the residual value of the wiring (the installation cost minus depreciation), or to have the LEA remove the wiring if the CAI program is terminated at the site.

Q35. May Title I funds be used to provide a technician in a religiously affiliated private school to operate and maintain CAI equipment and keep order as needed in the CAI Title I classroom?

A. Yes. A technician may be paid from Title I funds to operate and maintain the CAI equipment and keep order, but cannot provide instructional services in the religiously affiliated private school. The Supreme Court in the Felton case prohibited the provision of Title I instructional services in religiously affiliated private schools, but did not rule on the provision of technical, noninstructional services in those schools.

Q26. What can a small rural LEA with a small Title I allocation do to provide equitable services consistent with the Felton decision?

- A. Rural LEAs may have special problems because of small allocations and large distances between the private schools and available locations for providing Title I services. The LEAs may wish to consider leasing rather than purchasing equipment, renting a neutral site, or using home-tutoring components to provide equitable services. They may also wish to set up a joint project with neighboring LEAs, and submit a combined application.

Q27. Did Aguilar v. Felton specifically forbid that instructional services be provided to children in institutions for children adjudicated as neglected or delinquent (N or D) operated by religious groups?

- A. No. The Court did not address the unique circumstances involved in serving children in N or D institutions.

Capital Expenses

Section 1120(e)(2) provides that an LEA may apply to an SEA for payments for capital expenses incurred to provide equitable services for private school children. For this purpose, "capital expenses" means expenditures for noninstructional goods and services that are incurred as a result of implementing alternative delivery systems to comply with Aguilar v. Felton, including:

- The purchase, lease, or renovation of real and personal property, including mobile or portable educational units and leasing of neutral sites or spaces;
- Insurance and maintenance costs;
- Transportation;
- Other comparable goods and services, which include costs to escort children to and from instructional areas and, in the case of computer-assisted instruction, costs to install equipment and to pay for a noninstructional technician.

Costs of computer equipment are instructional. These costs may not be paid with capital expense funds.

Q28. How may an LEA use capital expense funds?

- A. Funds may be used for the following purposes:

1. To pay current capital expense costs, such as transportation or lease costs, to

serve private school children.

2. To pay capital expense costs the LEA will incur to increase the numbers of private school children it will serve. For instance, an LEA has been serving private school children at a nearby public school. However, valuable instructional time is lost in transporting the children by bus and, as a result, many eligible children do not participate. The LEA applies for capital expense funds to lease a portable building to place on vacant land next to the private school in order to increase the number of children who will participate in the program.
3. To reimburse the LEA for capital expense costs incurred in prior years for which it has not been reimbursed, if the LEA demonstrates that its current needs for capital expenses have been met. Assuming the LEA originally paid for these costs "off the top" of its Title I allocation, such a reimbursement of capital expense funds must be used to provide Title I services to both public and private school children.

The State allocates the capital expense funds to LEAs based on the degree of need expressed in the application.

Q29. How must LEAs account for capital expense funds?

- A. Since capital expense funds are appropriated and awarded separately from basic grant funds, they must be accounted for separately. LEAs should treat capital expense funds as a separate program, and account for them in the same manner they account for any other Federal grant funds. The LEA may not take into account capital expense funds in determining the amount of Title I funds reserved for educational services for private school children based on the poverty count of private school children in participating school attendance areas.

be aware that the Supreme Court has previously held that the Establishment Clause of the First Amendment is not violated when units are located on public property near the private school. See Wolman v. Walter, 433 U.S. 229, 246-47 (1977). Such locations, as well as other locations not owned by the private school or a religious organization, are plainly acceptable sites for mobile or portable units.

The Supreme Court has not ruled on the constitutionality of placing a mobile or portable unit on property belonging to a religiously affiliated private school, and there may be differing views on this subject. It is the view of the Department that, under certain circumstances, mobile or portable units may constitutionally be placed on such private school property. See, e.g., Pulido v. Cavazos, 934 F.2d 912, 922-24 (8th Cir. 1991). The Department believes that the courts would approve delivery of services in locations on private school property that fit the Supreme Court's characterization of the site that it found acceptable in Wolman v. Walter, i.e., a site "neither physically nor educationally identified with the functions of the nonpublic school." While the Court has not held that other locations are constitutionally impermissible, we believe that services at locations fitting this characterization are most likely to withstand judicial scrutiny. The Department believes that one way in which the use of a mobile or portable unit at a given location on the property of a religiously affiliated private school will comport with this standard is if the following conditions are met:

1. The property is at a sufficient distance from the private school building(s) so that the mobile or portable unit is clearly distinguishable from the private school facilities used for regular (non-Title I) instruction.
2. The mobile or portable unit is clearly and separately identified as property of the LEA and is free of religious symbols.
3. The unit and the property upon which it is located are not used for religious purposes or for the private school's educational program.
4. The unit is not used by private school personnel.

In addition to the conditions stated above, an LEA may find that the following two further guidelines may bolster its decision to locate units on the property of a religiously affiliated private school:

1. Before placing a unit on private school property, the LEA can determine that other locations for the services are unsafe, impracticable, or substantially less convenient for the children to be served.

2. The public school district could enter into a lease arrangement with the private school for the use of the land owned by the private school upon which the unit is to be sited.

Q22. What are some examples of property owned by a religiously affiliated private school that would meet the above criteria?

A. Such property might include:

1. Land near the school that is separated from the school by an undeveloped plot of land or other terrain features and that is used neither for religious purposes nor the school's educational program.
2. A portion of a private school playground that is fenced in and has direct access to a public street.
3. Those portions of a parking lot that are not immediately adjacent to the private school.

Q23. May a religiously affiliated private school building be used as a power source for a unit?

A. Yes. There is nothing to prohibit public schools from arranging for power from any source. However, care must be exercised in the placement of the unit to make certain that the unit is separate from the private school building. If the use of the power source results in the need for repair, remodeling, or construction of private school facilities, Title I funds may not be used for such repair, remodeling, or construction. (See §200.13(e) of the Title I regulations.)

Q24. May the LEA pay the private school with Title I funds for the power or for leasing property?

A. Yes. The private school, however, may not charge more than a reasonable amount as determined under local conditions.

Q25. Who is responsible and liable for the safety of private school children during the time they walk or ride to a neutral site to be served by the Title I program?

A. Generally, the LEA is responsible for providing for the transporting of these children to a neutral site. The question of liability, however, would be determined in accordance with State and local laws and would depend on the specific facts of the situation. Any increased cost to the LEA for having liability insurance coverage may be charged as an administrative cost to the Title I program, or to the capital expense grant.

provide instructional services on the premises of religiously affiliated private schools. Instructional services for those children must be provided at sites that are neither "physically nor educationally identified with the functions of the private school." See Wolman v. Walter, 433 U.S. 229, 246-47 (1977).

Q11. May Title I personnel enter a religiously affiliated private school in order to escort private school children from their rooms to services held outside the private school and to return them to their rooms?

A. Yes. The provision of escort services where needed is permissible as long as no instruction is occurring as the children are being escorted. Under these circumstances, the duties are noninstructional and are designed merely to protect the health and safety of the children. As noted above, the Supreme Court in Felton only prohibited Title I instructional services on the premises of religiously affiliated private schools. The Court in Wolman and previously in Everson v. Board of Education, 330 U.S. 1, 17-18 (1947), recognized that services related to the health and safety of children are permissible even if provided at religiously affiliated private schools. Therefore, the use of escorts does not raise the entanglement problems at issue in the Felton case.

Q12. Are Title I programs on nonreligious private school premises affected by the Aguilar v. Felton decision?

A. No.

Q13. Does the term "teacher" as used in Aguilar v. Felton include other public school personnel?

A. The Second Circuit opinion affirmed by the Supreme Court in Aguilar v. Felton forbade "the use of federal funds to send public school teachers and other professionals into religious schools to carry on instruction, remedial or otherwise, or to provide clinical and guidance services." However, the Supreme Court in an earlier case, Wolman v. Walter, distinguished the role of the diagnostician from that of the teacher or counselor with regard to services in the private school. We view testing to select children as part of diagnosis; hence, on-premises testing for student selection is not prohibited under Felton.

Q14. May private school students be provided services in public schools or at neutral sites during regular school hours, before or after school, or on weekends?

A. Yes. These options are all available, but the services must be equitable to services provided public school children.

Q15. May private school children receive Title I services in the religiously affiliated

private school before or after regular school hours or on weekends?

A. No.

Q16. May private school children receive services with public school children in a summer school program?

A. Yes, but services must be equitable to those provided public school children. To provide only summer activity for private school children, while serving public school children during both the regular term and summer, generally would not be equitable.

Q17. Where may summer school services be provided?

A. At any site allowable during the regular school year.

Q18. If an LEA provides Title I services to private school children in the public schools, may the LEA charge Title I a reasonable amount for the space used? How are such costs allocated?

A. Yes. Reasonable and necessary costs for public school space used for the instruction of private school students are allowable. Reasonable and necessary costs are those in excess of what the LEA would incur in the absence of Title I. For example, the cost of a classroom in a building already in use would not be an excess cost. Special costs incurred in preparing and maintaining it for occupancy by Title I would be allowable. Any such costs would be considered administrative and would come from the LEA's whole Title I allocation or from capital expense funds--not from funds used to provide instructional services to private school children.

Q19. May a private school child take onto private school premises Title I instructional materials for his or her use as part of the child's Title I program?

A. Yes.

Q20. May a neutral, third-party contractor provide Title I instructional services on the premises of a religiously affiliated private school?

A. No.

Q21. May LEAs use mobile vans or other portable units to provide Title I services to children enrolled in religiously affiliated private schools? If yes, where may an LEA place a mobile or portable unit?

A. Yes. The use of mobile or portable units for the provision of Title I services to private school children is allowable. In deciding where to place a unit, LEAs should

Q5. If a school in the attendance area in which eligible private school students reside is operating a schoolwide program, are private school students to be offered a schoolwide program?

A. No. Because private schools are not eligible for Title I services, schoolwide programs may not be operated in private schools. However, eligible private school children residing in an area served by a schoolwide program school must be offered equitable services.

Q6. May an LEA provide services to private school children that are not equitable to those provided to public school children, if, after receiving an offer of equitable services, the private school officials or parents choose to have the children participate in only some of the services?

A. The statute requires that an LEA offer equitable services to private school children; it does not require that private school children accept or participate in all those services. If private school officials or parents choose to have their children participate in only some of those services, and decline participation in others, the LEA will have met its responsibility by providing those services in which private school children wish to participate. LEAs should continue to offer equitable services in future years, however, rather than offering only those services in which children participated in the past.

Q7. When a child residing in a Title I attendance area in one LEA attends a private school in another LEA, which LEA, if any, is responsible for serving the child?

A. The LEA in which the child resides is responsible to provide services for the child. The LEA may, however, arrange to have services provided by another LEA, reimbursing that LEA for costs.

Q8. May an LEA establish a minimum number of private school children selected for the program in order to establish a Title I program near the private school? If so, what is the LEA's responsibility to serve children attending private schools with fewer than that minimum number?

A. Section 1120(a) of Title I requires that LEAs provide for the participation, on an equitable basis, of eligible children enrolled in private schools. The requirement applies regardless of the number of children attending a private school. However, when the number of eligible children at one location is very small, the cost of establishing certain types of programs to serve them may be prohibitive, especially when these children may be from several grades or have different educational needs. In this case, other options should be considered. For instance, if it is feasible and equitable, LEAs may adopt methods, such as take-home computer programs, individual tutoring programs, or professional development activities with the